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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,751	01/21/2002	Michael Paul Minneman	DBMOP102USB	5457

7590 10/23/2003  
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EXAMINER

SIKDER, MOHAMMAD YUNUS

ART UNIT PAPER NUMBER

2872

DATE MAILED: 10/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n No.

10/053,751

Applicant(s)

MINNEMAN ET AL.

Examin r

MOHAMMAD Y SIKDER

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)☒ Responsive to communication(s) filed on 21 January 2002.
- 2a)☐ This action is FINAL. 2b)☐ This action is non-final.
- 3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6)☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7)☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8)☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

## Application Papers

- 9)☐ The specification is objected to by the Examiner.
- 10)☐ The drawing(s) filed on \_\_\_\_\_ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)☐ The proposed drawing correction filed on \_\_\_\_\_ is: a)☐ approved b)☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12)☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)☐ All b)☐ Some \* c)☐ None of:
- 1.☐ Certified copies of the priority documents have been received.
- 2.☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a)☐ The translation of the foreign language provisional application has been received.
- 15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1)☐ Notice of References Cited (PTO-892)
- 2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4)☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5)☐ Notice of Informal Patent Application (PTO-152)
- 6)☐ Other: \_\_\_\_\_.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to integrating sphere having light inlet which is offset from a diameter axis of the spherical volume, classified in class 359, subclass 838.
- II. Claims 6-11, drawn to specific features of the diameter axis which is perpendicular to the first mentioned diameter axis, classified in class 385, subclass 31.
- III. Claims 12-13, drawn to specific features of the light inlet which is tapered along at least part of its length from an inlet end to an outlet end, classified in class 385, subclass 39.
- IV. Claims 14-18, drawn to optical measurement instrument, classified in class 356, subclass 236.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of the subcombination as claimed for patentability such as specific features of the diameter axis which is perpendicular to the first mentioned

diameter axis. The subcombination has separate utility such as specific features of the diameter axis which is perpendicular to the first mentioned diameter axis.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed does not require the particulars of the subcombination as claimed for patentability such as specific features of the light inlet which is tapered along at least part of its length from an inlet end to an outlet end. The subcombination has separate utility such as specific features of the light inlet which is tapered along at least part of its length from an inlet end to an outlet end.

Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as integrating sphere having light inlet which is offset from a diameter axis of the spherical volume. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility

such as the light inlet which is tapered along at least part of its length from an inlet end to an outlet end. See MPEP § 806.05(d).

Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as the diameter axis which is perpendicular to the first mentioned diameter axis. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as the light inlet which is tapered along at least part of its length from an inlet end to an outlet end. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, III, IV, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Warren Sklar on 9/17/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

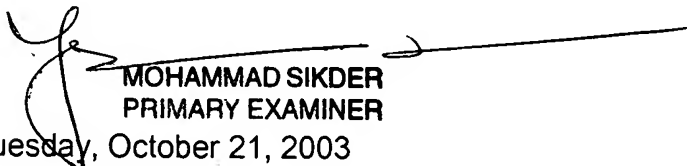
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***CONTACT INFORMATION***

Papers related to this application may be submitted to Group 2870 by facsimile transmission. Papers should be faxed to Group 2870 via the PTO Fax center located in the Crystal Plaza 4. Faxing of such papers must conform with the notice published in the official Gazette, 1096 OG 30 (November 15, 1989). The CP-4 Fax Center number is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application should be directed to M. Sikder whose telephone number is (703) 305-5471.

  
MOHAMMAD SIKDER  
PRIMARY EXAMINER  
Tuesday, October 21, 2003